

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 113 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF WEALTH TAX

Versus

RAHUL FAMILY TRUST

Appearance:

Mr.B.B. Naik for MR MANISH R BHATT for Petitioner
UNSERVED for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 20/02/98

ORAL JUDGEMENT

(Per R.K.Abichandani, J)

The Income-tax Appellate
Tribunal, Ahmedabad has referred the following question
for the opinion of this Court under section 27(1) of the
Wealth Tax Act, 1957.

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that in the assessment of the assessee under section 21(4) of the W.T. Act, 1957 the Wealth tax was leviable on the aggregate value of life interest and reversionary interest only if such interest exceeded the taxable limit in schedule-I of the W.T. Act, 1957 and that the wealth-tax was leviable on the value of the assets to the extent it exceeded the aggregate value of life interest and reversionary interest only if such excess exceeded the taxable limit under the said schedule ?"

2. Similar question had come up for consideration by this Court in Wealth Tax Reference No. 47 of 1993 and by the decision dated 29.1.1998, it was held that though a representative assessee who holds the assets on behalf of the beneficiaries, whose shares are indeterminate or unknown, is required to be assessed as an individual, the provision of section 21(4) of the Wealth Tax Act made it clear that, that should be done in the same manner and to the same extent as the levy and recovery could be made from an individual. It was held that if an individual was not liable to pay wealth tax and the wealth tax was not recoverable from him, then to that extent, it could also not be recovered from such representative assessee who was required to be assessed as an individual. It was further held that it would be fallacious to say that the Legislature intended to take away the exemption limit which was applicable in such cases merely because higher rate came to be prescribed by the subsequent amendments. For this and other reasons, given for the said decision in Wealth Tax Reference No. 47 of 1993, we answer the question referred to this Court in the affirmative in favour of the assessee and against the Revenue. The Reference stands disposed of accordingly with no order as to costs.

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